

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5234 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No

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SURESHBHAI D VASAVA

Versus

STATE OF GUJARAT

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Appearance:

Mr. H.R. Prajapati for M/S THAKKAR ASSOC. for Petitioner  
Mr. Nigam Shukla, learned Asst.G.P. for the respondents.

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 04/11/96

ORAL JUDGMENT :

1. This Special Civil Application is directed against the detention order dated 27-4-96 passed by the District Magistrate, Bharuch whereby the petitioner has been detained under the provisions of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act'). The detention order was executed on 29-4-96 and since then the

petitioner is under detention lodged at Bhavnagar District Jail, Bhavnagar.

2. The present Special Civil Application was filed in this court on 18-7-96 and on 19-7-96 Rule returnable on 12-8-96 was issued. So far neither any reply has been filed on behalf of the respondents nor any affidavit has been filed by the detaining authority.

3. The grounds enclosed with the detention order show that 4 criminal cases under the Bombay Prohibition Act were registered against the petitioner at Police Station, Ankleshwar. Out of these 4 cases, three cases were pending trial before the Court and in one of the cases police investigation was going on at the time when the detention order was passed. After taking notice of the allegations in the aforesaid 4 criminal cases, the detaining authority has expressed that the petitioner was engaged in the unauthorised business of country liquor and was a bootlegger. The detaining authority has also taken into consideration the statements made by 4 witnesses on 7-4-96 and 8-4-96. It has been found that the petitioner has been beating innocent persons, has been committing Dadagiri openly, has been using weapons, was a head strong person and was creating an atmosphere of terror and was publicly beating those persons who do not co-operate with him in the business of his unauthorised liquor. The witnesses were not prepared to come out openly against him out of his fear. The detaining authority mentioned that in order to prevent the petitioner from continuing with his anti social and bootlegging activities, it was necessary to pass the detention order against the petitioner. Accordingly the detention order was passed.

4. The detention order has been challenged on more than one grounds. But the learned counsel for the petitioner has kept his arguments confined to the question that even if the allegations and materials against the petitioner are taken to be correct on its face value, it can not be said that a case of breach of public order is made out. At the most it is a case of breach of law and order.

5. For the reasons given in the judgment dated 4-10-96 in Special Civil Application No.3879/96 it is found that the allegations and materials, on the basis of which the detention order has been passed, do not constitute a case of breach of public order and it is at the most a case of breach of law and order. The detention order, therefore, can not be sustained in the

eye of law.

6. Accordingly this Special Civil Application is allowed and the impugned detention order dated 27-4-96 passed by the District Magistrate, Bharuch is hereby quashed and set aside and the petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith, if not required in any other case. Rule is made absolute.